

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ELDORA PRINCE and
NGCOBA ATKINS,

Plaintiffs,

-v-

6:16-CV-0440
(DNH/ATB)

DEP'T OF SOCIAL SERVICES OF
ONEIDA COUNTY, LUCILLE SOLDADO,
SAMUEL D. ROBERTS, BRIAN KIRLEY
and MELANIE DEFAZIO,

Defendants.

APPEARANCES:

ELDORA PRINCE
NGCOBA ATKINS
Plaintiffs, *Pro se*
636 James Street
Utica, NY 13501

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiffs Eldora Prince and Ngcoba Atkins brought this civil rights action pursuant to 42 U.S.C. § 1983 alleging various constitutional violations associated with the termination of plaintiffs' benefits by the defendants. On May 5, 2016, the Honorable Andrew T. Baxter, United States Magistrate Judge, advised by Report-Recommendation that certain claims within the complaint be dismissed without leave to amend and others be dismissed with leave to amend. Plaintiffs have submitted objections to the Report-Recommendation. See ECF No. 5.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiffs objected, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is ORDERED that:

1. Plaintiffs' complaint is **DISMISSED WITH PREJUDICE** as to the Oneida County Department of Social Services and Samuel D. Roberts, Commissioner of New York State Office of Temporary Disability;

2. Plaintiffs' complaint is **DISMISSED WITHOUT PREJUDICE** as to any due process, equal protection claims, or claims under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. or the Rehabilitation Act of 1973, 29 U.S.C. § 794(a), as detailed in the May 5, 2016 Report-Recommendation;

3. Plaintiffs' complaint is **DISMISSED WITH PREJUDICE** as to all remaining claims (defamation, fraud, fraud in the inducement, negligence, harassment, retaliation, official misconduct, undue burden, breach of contract and embezzlement);

4. Plaintiffs may file an amended complaint on or before **Monday, August 8, 2016** as to only the claims that are dismissed without prejudice, against individuals who plaintiffs claim were responsible for the alleged violations;


5. If Plaintiffs choose to file an amended complaint, such amended complaint shall supersede and replace their original complaint in its entirety and comply with all requirements outlined in the Report-Recommendation;

6. If plaintiffs fail to file an amended complaint within the appropriate time or request an extension of time to do so, this action will be dismissed with prejudice;

7. If plaintiffs file a proposed amended complaint within the allotted time, the proposed amended complaint shall be returned to Magistrate Judge Baxter to determine its compliance with the Report-Recommendation and 28 U.S.C. §§ 1915A and 1915(e); and

8. The Clerk serve a copy of this Decision and Order upon plaintiffs in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: June 23, 2016
Utica, New York